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FACSIMILE COVER SHEET

Examiner: Ronald B. Schwadron, Ph.D. **Group:** 1644

Date: August 27, 2003

FAX RECEIVE

Client Code: 1855.1004-002

AUG 28 2003

Facsimile No.: 703-308-4242

GROUP 1600

From: Robert H. Underwood

Subject: Paper: Reply To Office Communication and Notice To Comply
With 37 C.F.R. §§ 1.821-1.825

Docket No.: 1855.1004-002

Applicant: Michael J. Briskin

Application No.: 08/875,849

Filing Date: September 8, 1997

Number of pages including this cover sheet: 8

Please confirm receipt of facsimile: Yes No

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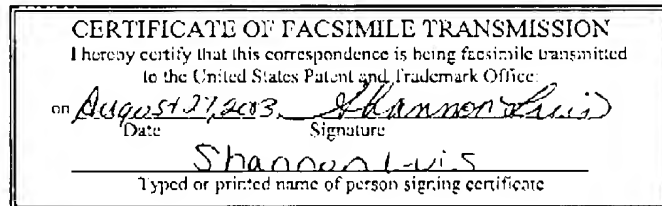
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HEW/RHU
August 27, 2003

PATENT APPLICATION
Docket No.: 1855.1004-002 (LKS94-04A2)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Michael J. Briskin
Application No.: 08/875,849 Group Art Unit: 1644
Filed: September 8, 1997 Examiner: R. Schwadron
Confirmation No.: 4411
For: MUCOSAL VASCULAR ADDRESSINS AND USES
THEREOF



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GROUP 1600

REPLY TO OFFICE COMMUNICATION AND NOTICE TO COMPLY
WITH 37 C.F.R. §§1.821-1.825

Mail Stop Sequence
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply is submitted in response to the Office Communication and Notice to Comply with Requirement for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures attached thereto, mailed from the Patent Office on July 29, 2003. A copy of the Office Communication and Notice to Comply is enclosed.

08/875,849

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The undersigned thanks the Examiner for discussing the Notice to Comply and the rationale described herein by telephone on August 26, 2003.

The Notice to Comply states, "[i]n view of the Request for Correction of Inventorship filed 5/23/2003, a new sequence listing in paper and CRF from [sic] is required deleting former inventors Ringler, Picarella and Newman from section (1)(I)."

Applicant respectfully disagrees that a substitute Sequence Listing must be filed in view of the Request for Correction/Amendment of Inventorship Under 37 C.F.R. § 1.48(b) that was filed on May 23, 2003. 37 C.F.R. § 1.821(e) provides that if the CRF of a new application is identical to the CRF in another application on file in the PTO, reference can be made to the other application and the CRF therein in lieu of filing a new CRF. (37 C.F.R. § 1.821(e).) In order to take advantage of the provisions of § 1.821(e), the applicant must state that the paper or compact disc copy of the Sequence Listing in the new application is identical to the CFR in the other application. The M.P.E.P. further explains that under § 1.821(e), "additional computer readable forms will not be required in derivative or continuing applications if the sequence information is exactly the same, i.e., with no additions or deletions, as that in a parent or previously filed application" (M.P.E.P. § 2422.05 at 2400-36.) The M.P.E.P. also instructs that a continuing application can be filed under 37 C.F.R. § 1.53(b) by filing a copy of the prior application (including the Sequence Listing and drawings), including a copy of the signed oath or declaration in the prior application, as filed. (M.P.E.P. § 201.06(c) at 200-36.)

Under the circumstances described in § 1.821(e) and the M.P.E.P., it is apparent that the paper copy or compact disk copy and the CRF of the Sequence Listing in the new application may contain bibliographic data (e.g., Applicant, File Reference, Current Application Number, Current Filing date, Prior Application Number, Prior Application Filing Date) that does not

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correspond to that of the new application. Despite the absence of current bibliographic data, the M.P.E.P. indicates that copies of the paper or compact disk Sequence Listing and CRF from the prior application are acceptable in the new application. There is no requirement in any statute, rule or PTO procedure that a substitute Sequence Listing that contains corrected bibliographic data be provided in such a new application.

The subject application presents a similar situation. Here, the inventorship has been amended to delete persons whose inventions are no longer being claimed. The sequence information in the application is exactly the same now as it was prior to filing the Request for Correction/Amendment of Inventorship Under 37 C.F.R. § 1.48(b). Therefore, the subject application should be treated by the PTO in a manner analogous to the practice under 37 C.F.R. § 1.821(c), and a substitute Sequence Listing should not be required.

In view of the foregoing, and in the spirit of 37 C.F.R. § 1.821(c), it is requested that the holding of noncompliance with 37 C.F.R. §§ 1.821-1.825 be reconsidered and withdrawn.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By Robert H. Underwood
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Date: *August 27, 2003*

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Andrew COMMISSIONER FOR PATENTS
P.O. Box 1029
Alexandria, Virginia 22310-1029
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/875,849	09/08/1997	MICHAEL J. BRISKIN	LK894-04A2	4411

21:005 7590 07/29/2003

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1855-1004-222

EXAMINER

SCHWADRON, RONALD B

ART UNIT

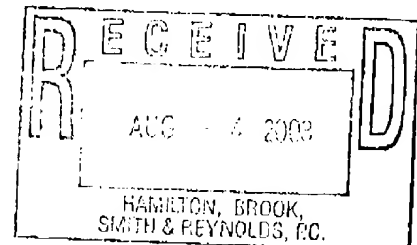
PAPER NUMBER

1644

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)



P. 05

FAX NO.

AUG-27-2003 WED 03:43 PM



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

DEA/TCM 994

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

DATE MAILED:

Please find below a communication from the **EXAMINER** in charge of this application
Commissioner of Patents

1. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

In view of the Request for Correction of Inventorship filed 5/23/2003, a new sequence listing in paper and CRF form is required deleting former inventors Ringler, Picarella and Newman from section (1)(I).

Applicant is given ONE MONTH, or THIRTY DAYS, whichever is longer, from the mailing date of this letter within which to comply with the sequence rules, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). In no case may an applicant extend the period for reply beyond the SIX MONTH statutory period. Direct the reply to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the reply.

Any inquiry concerning this communication should be directed to Examiner Ron Schwadron, Ph.D., Art Unit 1644, whose telephone number is (703) 308-4680. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0196.



RONALD S. SCHWADRON
PRIMARY EXAMINER
GROUP 1800-1600

Ron Schwadron, Ph.D.
Art Unit 1644

Application No.: 08/875849**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☒ 7. Other: see enclosed communication

Applicant Must Provide:

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

For PatentIn software help, call (703) 308-6856

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE